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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,665	08/17/2001	Yuichiro Deguchi	SONI-7100	4567

7590 05/06/2005

Valley Oak Law
5655 Silver Creek Valley Road
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San Jose, CA 95138

EXAMINER

HAQ, NAEEM U

ART UNIT PAPER NUMBER

3625

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/932,665

Applicant(s)

DEGUCHI, YUICHIRO

Examiner

Naeem Haq

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,10-20,22-35 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,4-9,21,36 and 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

This action is in response to the Applicant's election of Group I (claims 1-23 and 36-38), and the election of species 4-9 within Group I without traverse. Therefore claims 1, 4-9, 21, 36, and 37 are currently pending and will be considered for examination. All other claims are hereby withdrawn from consideration.

Drawings

New corrected drawings are required because this application has been filed with informal drawings which are acceptable for examination purposes only. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-9, 21, 36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hans et al. (US 2002/0120577 A1) hereinafter referred to as Hans.

Referring to claims 1, 21, 36, and 37, Hans teaches a system comprising: a gateway terminal connected to a data marking device (Figure 2, items "28", "30", and "26"); said gateway terminal configured to receive one or more data marks from said data marking device (paragraph [0025]); a server terminal coupled to said gateway terminal configured to receive said data marks and generate a user playlist (paragraph [0033]); server terminal further configured to transmit said generated user playlist to said gateway terminal (Figure 2). Hans does not teach that the data marks include a time stamp and a date stamp corresponding to a music clip broadcast over a registered radio station, or that the playlist includes the name of the broadcast music clip, name of the music artist, and name of the album. However, the Examiner notes that these limitations are not structurally involved in the elements of the recited system. Therefore these limitations are deemed to be nonfunctional descriptive material. The elements of the system would be the same regardless of what information the data mark or playlist contained. The differences between the content of the Applicant's data and the prior art are merely subjective. Thus this nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) also see MPEP 2106. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to

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have any information in the data of Hans because such information does not structurally relate to the elements of the claimed system and because the subjective interpretation of information does not patentably distinguish the claimed invention.

Referring to claims 4-9, Hans is silent about gateway terminal receiving a data marking device identification code. However, this limitation is inherent in Hans. Hans teaches a wireless network that is connected to a computer network via WML (Figure 2). Therefore any communication between the PDA device and network would require an IP address (i.e. device identification code) otherwise the network would not be able to communicate with PDA. Hans does not teach a geographic location code. However this limitation is not structurally involved in the elements of the recited system.

Therefore this limitation is deemed to be nonfunctional descriptive material. The elements of the system would be the same regardless of what information a code contained. The differences between the content of the Applicant's invention and the prior art are merely subjective. Thus this nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) also see MPEP 2106. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have any information in the data of Hans because such information does not structurally relate to the elements of the claimed system and because the subjective interpretation of information does not patentably distinguish the claimed invention.

Requirement for Information Under 37 C.F.R. 1.105

1. Applicant and the Assignee of this application are required under 37 CFR 1.105 to provide the following information that the Examiner has determined is reasonably necessary to the examination of this application.

2. In response to this requirement, please provide the following:

a) The citation and a copy of each publication which any of the Applicants authored or co-authored and which describe the claimed subject matter of using a computer network to select a catalytic converter substrate or diesel particulate filter based on a pressure drop calculation from an emissions-control system profile. In addition, please provide the citation and a copy of each publication which any of the Applicants authored or co-authored and which describe the claimed subject matter of calculating the thickness of a substrate coating.

b) The existence of any particularly relevant commercial database known to any of the inventors that could be searched for a particular aspect of the invention.

c) In view of the Applicant's admission that Sony Corp. has introduced an electronic music marker device ("Background of the Invention"), the Examiner requests the Applicant provide additional information about this device and its functions.

3. The fee and certification requirements of 37 C.F.R. § 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 C.F.R. § 1.105 that are

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included in the applicant's first complete communication responding to this requirement.

Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 C.F.R. § 1.105 are subject to the fee and certification requirements of 37 C.F.R. § 1.97.

4. In responding to those requirements that require copies of documents, where the document is a bound text or a single article over 50 pages, the requirement may be met by providing copies of those pages that provide the particular subject matter indicated in the requirement, or where such subject matter is not indicated, the subject matter found in applicant's disclosure.

5. The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete response to the requirement for that item.

6. This requirement is an attachment of the enclosed Office action. A complete response to the enclosed Office action must include a complete response to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action, which is THREE months.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.

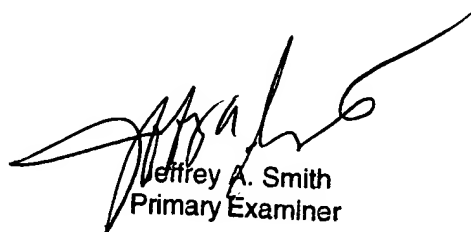
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (571)-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naeem Haq, Patent Examiner
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May 2, 2005



Jeffrey A. Smith
Primary Examiner